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EXAMINER

YENKE, BRIAN P

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 09/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/855,345

Applicant(s)

SHIRAHAMA ET AL.

Examiner

BRIAN P. YENKE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

- 2a. Claims 1, 3-8 and 10-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Kim, US 6,188,439.

In considering claim 1,

- a) *the claimed an extracting unit operable to extract image data of a selected program* is met by video and audio signal separation unit 8 (Fig 2) which separates the converted signal from processing unit 6 into a video signal and an audio signal (col 2, line 61-63), where the separated signal is the program/channel selected by the user via key input unit 20 (Fig 2).
- b) *the claimed an acquisition unit operable to operable to acquire image encoded information of the selected program extracted by the extraction unit met by genre*

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data detecting unit 14 (Fig 2) which detects genre data from the separated video signal input from the video and audio signal separation unit 8 (col 3, line 3-5).

c) the claimed a setting unit operable to set a signal parameter for processing an image signal of the selected program in accordance with the image encoded information is met control unit 16 (Fig 2, col 3, line 11-21) which decodes the detected data by the genre data detection unit 14, and reads the video and audio control signal (stored in memory 18) corresponding to the genre data. The control data/parameters stored in memory 18 and read out by control unit 16 are based on the genre data/code (mode) detected from the incoming signal include the screen (brightness, color) and sound% (Fig 3).

In considering claim 3,

The claimed further comprising a storage device operable to store the signal processing parameter is met where the control data/parameters stored in memory 18 and read out by control unit 16 are based on the genre data/code (mode) detected from the incoming signal include the screen (bright, color) and sound% (Fig 3).

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In considering claim 4,

The claimed further comprising changing means for changing the signal processing parameter on the basis of an input from a user is met where based upon the channel selected from the user via key input 20 and the genre is detected via detecting unit 14, the control unit 14 adjusts the video and audio control signal (stored in memory 18) corresponding to the genre data detected.

In considering claim 5,

The claimed further comprising a processor operable to process the image signal of the selected program in accordance with the signal processing parameter set the by setting unit is met by video signal processing unit 12 (Fig 2) which processes the separated video signal for display and adjusts the signal based on the control signal from control unit 16 (col 2, line 61 to col 3, line 2).

In considering claim 6,

The claimed further comprising a display operable to display the image signal of the selected program after processing is met by cathode ray tube (CRT) 24 (Fig 2).

In considering claim 7,

The claimed wherein the display is controlled in accordance with the image encoded information is met where CRT 24 is controlled by video signal processing unit 12 which receives the separated video via separation unit 8 and the control signal via control unit 16. The encoded genre information which is encoded is detected via data detecting unit 14 and decoded via control unit 16,

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which then implements control of video signal processing unit 12 and CRT 24 (Fig 2).

In considering claim 8,

a) the claimed extracting image data of a selected program is met by video and audio signal separation unit 8 (Fig 2) which separates the converted signal from processing unit 6 into a video signal and an audio signal (col 2, line 61-63), where the separated signal is the program/channel selected by the user via key input unit 20 (Fig 2).

b) the claimed acquiring image encoded information of the selected program extracted in the extracting step is met by genre data detecting unit 14 (Fig 2) which detects genre data from the separated video signal input from the video and audio signal separation unit 8 (col 3, line 3-5).

c) the claimed setting a signal processing parameter for processing an image signal of the selected program in accordance with the image encoded information is met control unit 16 (Fig 2, col 3, line 11-21) which decodes the detected data by the genre data detection unit 14, and reads the video and audio control signal (stored in memory 18) corresponding to the genre data. The control data/parameters stored in memory 18 and read out by control unit 16 are based on the genre data/code (mode) detected from the incoming signal include the screen (brightness, color) and sound% (Fig 3).

In considering claim 10,

The claimed further comprising storing the signal processing parameter is met where the control data/parameters stored in memory 18 and read out by control

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unit 16 are based on the genre data/code (mode) detected from the incoming signal include the screen (bright, color) and sound% (Fig 3).

In considering claim 11,

The claimed further comprising changing the signal processing parameter on the basis of an input from a user is met where based upon the channel selected from the user via key input 20 and the genre is detected via detecting unit 14, the control unit 14 adjusts the video and audio control signal (stored in memory 18) corresponding to the genre data detected.

In considering claim 12,

The claimed further comprising processing the image signal of the selected program in accordance with the set signal processing parameter set the by setting unit is met by video signal processing unit 12 (Fig 2) which processes the separated video signal for display and adjusts the signal based on the control signal from control unit 16 (col 2, line 61 to col 3, line 2).

In considering claim 13,

The claimed further comprising displaying the processed image signal of the selected program is met by cathode ray tube (CRT) 24 (Fig 2).

In considering claim 14,

The claimed wherein the step of displaying the processed image is controlled in accordance with the image encoded information is met where CRT 24 is controlled by video signal processing unit 12 which receives the separated video via separation unit 8 and the control signal via control unit 16. The encoded

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genre information which is encoded is detected via data detecting unit 14 and decoded via control unit 16, which then implements control of video signal processing unit 12 and CRT 24 (Fig 2).

In considering claim 15,

a) the claimed extracting image data of a selected program is met by video and audio signal separation unit 8 (Fig 2) which separates the converted signal from processing unit 6 into a video signal and an audio signal (col 2, line 61-63), where the separated signal is the program/channel selected by the user via key input unit 20 (Fig 2).

b) the claimed acquiring image encoded information of the selected program extracted in the extracting step is met by genre data detecting unit 14 (Fig 2) which detects genre data from the separated video signal input from the video and audio signal separation unit 8 (col 3, line 3-5).

c) the claimed setting a signal processing parameter for processing an image signal of the selected program in accordance with the image encoded information is met control unit 16 (Fig 2, col 3, line 11-21) which decodes the detected data by the genre data detection unit 14, and reads the video and audio control signal (stored in memory 18) corresponding to the genre data. The control data/parameters stored in memory 18 and read out by control unit 16 are based on the genre data/code (mode) detected from the incoming signal include the screen (brightness, color) and sound% (Fig 3).

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2b. Claims 1-2, 5-9, and 12-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Yoneda, US 6,609,251.

In considering claim 1,

a) the claimed an extraction unit operable to extract image data of a selected program is met by receiving unit 210 where separating unit 2 (Fig 1)(col 14, line 55-58) extracts video and service information from the multiplexed data.

b) the claimed an acquisition unit operable to acquire image encoded information of the selected program extracted by the extraction unit is met by the identification information storage unit 5 (Fig 1, col 14, line 61-64) which identifies/obtains the scanning method of the separated video data.

c) the claimed a setting unit operable to set a signal processing parameter for processing an image signal of the selected program in accordance with the image encoded information is met by scan method instructing unit 7 which decides a scanning method of the video data selected by the operator on the basis of information stored in the identification storage unit, where instructing unit 7 gives an instruction to decode the signal by the non-interlace video decoding unit 3 or the interlace video decoding unit 4 (Fig 1)(col 15, line 4-10).

In considering claim 2,

a) the claimed wherein the extraction unit extracts said image data of the selected program from a transport stream is met where receiving unit 210,

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extracts the image and audio data using separating unit 2 (Fig 2), where the received signal is a transport stream (abstract, lines 1-10).

b) the claimed wherein the acquisition unit acquires the image encoded information from service information included in the transport stream is met where identification information storage unit 5 which identifies/obtains the scanning method of the separated video data from the service information separated and extracted by the separating unit (col 14, line 55-64).

In considering claim 5,

The claimed further comprising a processor operable to process the image signal of the selected program in accordance with the signal processing parameter set by the setting unit is met by non-interlace video decoding unit 3 and interlace video decoding unit 4 which based upon the signal processing parameter received, decodes the received video signal under control of scan method instructing unit 7 (Fig 1).

In considering claim 6,

The claimed further comprising a display operable to display the image signal of the selected program after processing is met by video display 8 which display the image signal after being decoded by non-interlace video decoding unit 3 and interlace video decoding unit 4.

In considering claim 7,

The claimed wherein the display is controlled in accordance with the image encoded information is met where the video display 8 is controlled by either non-

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interlace video decoding unit 3 or interlace video decoding unit 4 based on the encoded information received/identified.

In considering claim 8,

a) the claimed extracting image data of a selected program is met by receiving unit 210 where separating unit 2 (Fig 1)(col 14, line 55-58) extracts video and service information from the multiplexed data.

b) the claimed acquiring image encoded information of the selected program extracted in the extraction step is met by the identification information storage unit 5 (Fig 1, col 14, line 61-64) which identifies/obtains the scanning method of the separated video data.

c) the claimed setting a signal processing parameter for processing an image signal of the selected program in accordance with the image encoded information is met by scan method instructing unit 7 which decides a scanning method of the video data selected by the operator on the basis of information stored in the identification storage unit, where instructing unit 7 gives an instruction to decode the signal by the non-interlace video decoding unit 3 or the interlace video decoding unit 4 (Fig 1)(col 15, line 4-10).

In considering claim 9,

a) the claimed wherein said extracting step extracts the image data of the selected program from a transport stream is met where receiving unit 210, extracts the image and audio data using separating unit 2 (Fig 2), where the received signal is a transport stream (abstract, lines 1-10).

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b) the claimed the acquiring step acquires the image encoded information from service information included in the transport stream is met where identification information storage unit 5 which identifies/obtains the scanning method of the separated video data from the service information separated and extracted by the separating unit (col 14, line 55-64).

In considering claim 12,

The claimed further comprising processing the image signal of the selected program in accordance with the set signal processing parameter set by the setting unit is met by non-interlace video decoding unit 3 and interlace video decoding unit 4 which based upon the signal processing parameter received, decodes the received video signal under control of scan method instructing unit 7 (Fig 1).

In considering claim 13,

The claimed further comprising displaying the processed image signal of the selected program is met by video display 8 which display the image signal after being decoded by non-interlace video decoding unit 3 and interlace video decoding unit 4.

In considering claim 14,

The claimed wherein the step of displaying the processed image is controlled in accordance with the image encoded information is met where the video display 8 is controlled by either non-interlace video decoding unit 3 or interlace video decoding unit 4 based on the encoded information received/identified.

In considering claim 15,

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a) the claimed extracting image data of a selected program is met by receiving unit 210 where separating unit 2 (Fig 1)(col 14, line 55-58) extracts video and service information from the multiplexed data.

b) the claimed acquiring image encoded information of the selected program extracted in the extraction step is met by the identification information storage unit 5 (Fig 1, col 14, line 61-64) which identifies/obtains the scanning method of the separated video data.

c) the claimed setting a signal processing parameter for processing an image signal of the selected program in accordance with the image encoded information is met by scan method instructing unit 7 which decides a scanning method of the video data selected by the operator on the basis of information stored in the identification storage unit, where instructing unit 7 gives an instruction to decode the signal by the non-interlace video decoding unit 3 or the interlace video decoding unit 4 (Fig 1)(col 15, line 4-10).

Double Patenting

3. Claims 1, 2, 3, 4, 8, 9, 10, 11 and 15 of this application conflict with claims 1, 2-3, 4, 5, 8, 9-10, 11, 12 and 15 of Application No. 09/854287. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the

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conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 2, 3, 4, 8, 9, 10, 11 and 15 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2-3, 4, 5, 8, 9-10, 11, 12 and 15 respectively of copending Application No 09/854287. Although the conflicting claims are not identical, they are not patentably distinct from each other because

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

In considering claim 1, the claimed subject matter is rejected over that of co-pending application 09/854287 (claim 1).

a) the claimed an extraction unit operable to extract image data of a selected program is met by copending claim 1, an extracting unit operable to extract

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image data and audio data of a program selected by a user. Although the present application does not claim the audio portion, it is conventional to receive both video and audio (if available) therefore the deletion of the audio portion from the present application is not patentably distinct. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the audio portion (if available) of a received video signal in order to provide the user the ability to hear/view the received program.

b) the claimed an acquisition operable to acquire image encoded information of the selected program extracted by the extraction unit is met by copending claim 1, an obtaining unit operable to obtain information related to said selected program. Although, the copending application does not include "encoded", a signal, which includes additional data in a program data/signal, may be encoded into the stream, and also a transport stream is an encoded signal. Therefore, it would have been obvious to one of ordinary skill in the art to acquire/obtain the additional information from an encoded signal, received from a program data/signal or a transport stream, by acquiring/obtaining the information from an encoded signal.

c) the claimed a setting unit operable to set a signal processing parameter for processing an image signal of the selected program in accordance with the image encoded information is met by copending claim 1, setting unit. Although, the copending application claims a control parameter as compared to the signal processing parameter of the copending application, both parameters are used

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process/control the image data for display, therefore, the difference in the naming of the element is inconsequential.

In considering claim 2,

a) the claimed the extraction unit extracts the image data of the selected program from a transport stream is met by copending claim 2. Although, the present application does not claim audio, as stated above with respect to claim 1 (a), the inclusion of audio is an obvious modification.

b) the claimed acquisition unit acquires the image encoded information from service information included in the transport stream is met by copending claim 3. Although, the present application claims "encoded" information, whereas the copending does not, since both application receive a transport stream, they both receive an encoded signal.

In considering claim 3,

The claimed further comprising a storage device operable to store the signal processing parameter is met by copending claim 4, where the copending application claims a "storage unit" and "control parameter" which correspond with the presently claimed "storage device" and "signal processing parameter", thus the difference in the element names are inconsequential.

In considering claim 4,

The claimed further comprising changing means for changing the signal processing parameter on the basis of an input from a user is met by copending claim 5, where the copending claims a "adjusting unit" and "control parameter" which correspond with the presently claimed "changing means" and "signal

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processing parameter”, thus the difference in the element names are inconsequential.

In considering claim 8, the claimed subject matter is rejected over that of co-pending application 09/854287 (claim 8).

a) the claimed extracting image data of a selected program is met by copending claim 8, extracting image data and audio data of a program selected by a user.

Although the present application does not claim the audio portion, it is conventional to receive both video and audio (if available) therefore the deletion of the audio portion from the present application is not patentably distinct.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the audio portion (if available) of a received video signal in order to provide the user the ability to hear/view the received program.

b) the claimed acquiring image encoded information of the selected program extracted in the extraction step is met by copending claim 8, an obtaining information related to said selected program. Although, the copending application does not include “*encoded*”, a signal, which includes additional data in a program data/signal, may be encoded into the stream, and also a transport stream is an encoded signal. Therefore, it would have been obvious to one of ordinary skill in the art to acquire/obtain the additional information from an encoded signal, received from a program data/signal or a transport stream, by acquiring/obtaining the information from an encoded signal.

c) the claimed setting a signal processing parameter for processing image signal of the selected program in accordance with the image encoded information is

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met by copending claim 8, setting a control parameter for controlling an image data display or an audio data output of said selected program in accordance with said related information. Although, the copending application claims a control parameter as compared to the signal processing parameter of the copending application, both parameters are used process/control the image data for display, therefore, the difference in the naming of the element is inconsequential.

In considering claim 9,

a) the claimed wherein said extracting step extracts the image data of the selected program from a transport stream is met by copending claim 9.

Although, the present application does not claim audio, as stated above with respect to claim 8 (a), the inclusion of audio is an obvious modification.

b) the claimed the acquiring step acquires the image encoded information from service information included in the transport stream is met by copending claim 10. Although, the present application claims "encoded" information, whereas the copending does not, since both application receive a transport stream, they both receive an encoded signal.

In considering claim 10,

The claimed further comprising storing the signal processing parameter is met by copending claim 11, where the copending application claims a "storage unit" and "control parameter" which correspond with the presently claimed "storage device" and "signal processing parameter", thus the difference in the element names are inconsequential, since they perform the same function as claimed.

In considering claim 11,

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The claimed further comprising changing the signal processing parameter on the basis of an input from a user is met by copending claim 12, where the copending claims a "adjusting unit" and "control parameter" which correspond with the presently claimed "changing means" and "signal processing parameter", thus the difference in the element names are inconsequential, since they perform the same function as claimed.

In considering claim 15, the claimed subject matter is rejected over that of co-pending application 09/854287 (claim 15).

a) the claimed extracting image data of a selected program is met by copending claim 8, extracting image data and audio data of a program selected by a user.

Although the present application does not claim the audio portion, it is conventional to receive both video and audio (if available) therefore the deletion of the audio portion from the present application is not patentably distinct.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the audio portion (if available) of a received video signal in order to provide the user the ability to hear/view the received program.

b) the claimed an acquiring image encoded information of the selected program extracted by the extraction step is met by copending claim 8, an obtaining information related to said selected program. Although, the copending application does not include "encoded", a signal, which includes additional data in a program data/signal, may be encoded into the stream, and also a transport stream is an encoded signal. Therefore, it would have been obvious to one of ordinary skill in the art to acquire/obtain the additional information from an

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encoded signal, received from a program data/signal or a transport stream, by acquiring/obtaining the information from an encoded signal.

c) the claimed setting a signal processing parameter for processing an image signal of the selected program in accordance with the image encoded information is met by copending claim 15, setting a control parameter for controlling an image data display or an audio data output of said selected program in accordance with said related information. Although, the copending application claims a control parameter as compared to the signal processing parameter of the copending application, both parameters are used process/control the image data for display, therefore, the difference in the naming of the element is inconsequential.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Jang, US 6,411,335 discloses an image reproducing apparatus and method for setting and automatically changing audio and visual setting for a plurality of channels.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Yenke whose telephone number is

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(703) 305-9871. The examiner work schedule is Monday-Thursday, 0730-1830 hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, John W. Miller, can be reached at (703)305-4795.

Any response to this action should be mailed to:

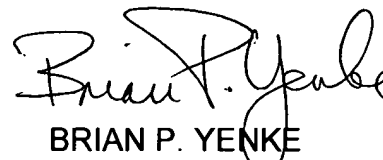
Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist). Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703)305-4700.



BRIAN P. YENKE
Patent Examiner
Art Unit 2614



B.P.Y.

September 5, 2003